OFFICE OF ENFORCEMENT ANNUAL REPORT

Fiscal Year 2000

U.S. Nuclear Regulatory Commission

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Abstract

This annual report of the U.S. Nuclear Regulatory Commission's Office of Enforcement describes enforcement activities occurring during fiscal year 2000 (October 1, 1999 through September 30, 2000). The report addresses significant policy changes, new initiatives, staff guidance, and implementation issues for the agency's enforcement program. It also highlights significant enforcement actions, and includes summaries of cases involving exercise of discretion, discrimination and actions involving individuals. A variety of statistical tables and figures are also included.

Introduction & Overview

NRC Enforcement Program - A Time of Change

Starting with its predecessor, the Atomic Energy Commission, the NRC has always had some type of enforcement program. The Commission's first public statement of policy on enforcement (the first Enforcement Policy) was published in 1980. Since that time, the Enforcement Policy has been revised numerous times to reflect experience and stakeholder input. Throughout these changes, two goals of the enforcement program remain unchanged--to emphasize the importance of compliance with regulatory requirements, and to encourage prompt identification, and prompt, comprehensive correction of violations.

In recent years, numerous stakeholders have voiced concerns that the enforcement program should be modified to have a more appropriate focus on those issues with the most safety significance. Additionally, the enforcement program was viewed as driving the performance assessment process, being overly burdensome, and being too reliant on civil penalties.

Starting in 1998, the enforcement program began a process of significant change. During the past fiscal year, the enforcement program continued to change to support new initiatives in the agency's oversight programs in conjunction with meeting the agency's performance goals of:

- maintaining safety;
- reducing unnecessary burden;
- making NRC activities and decisions more effective, efficient, and realistic; and
- increasing public confidence.

Changes in the enforcement program have stemmed from changes in inspection initiatives (e.g., revised reactor oversight process (ROP)) as well as from changes within the enforcement program itself (e.g., eliminating the practice of aggregating multiple low significance violations into escalated enforcement, and establishment of management-level review group to evaluate the processes for handling discrimination issues). The enforcement program will continue to change based on new initiatives in the inspection programs and new initiatives from within the enforcement program itself. This process reflects the NRC's extensive efforts to address industry and other stakeholder concerns and demonstrates the agency's commitment to more risk-informed, performance-based regulatory and enforcement programs.

Successful communication between both external and internal stakeholders is vital to ensure that the enforcement program is both understood and acknowledged as an integral, valuable piece of the agency's regulatory programs.

Key Principles of the Enforcement Program

- Consistent with the agency's overall safety mission in protecting the public and environment, enforcement actions should be used as a deterrent to emphasize the importance of compliance with regulatory requirements, and to encourage prompt identification, and prompt, comprehensive correction of violations.

- Enforcement actions are issued commensurate with the significance of the violation. In assessing the significance of a violation the NRC considers: (1) actual consequences, (2) potential safety

consequences, (3) the potential for impacting the NRC's ability to perform its regulatory function, and (4) whether there are any willful aspects.

- Risk insights are used to assess the significance of violations whenever possible. As individual inspection programs become more risk-informed and performance-based, so too will the respective enforcement program.

- Enforcement is one part of the overall regulatory process. Enforcement should not be viewed as a punitive tool to promote good performance. Enforcement is integrated with other regulatory tools to respond to performance issues.

- Compliance remains important to safety. Although changes in inspection oversight processes may result in fewer civil penalties being imposed and fewer Notices of Violations being issued (i.e., greater use of Non-Cited Violations), this does not mean that the agency has reduced its emphasis on the importance of compliance. Violations will continue to be identified and documented and licensees will have the responsibility for taking corrective actions to restore compliance and prevent recurrence.

Overview of the Enforcement Program

Violations are identified through inspections and investigations. All violations are subject to civil enforcement action and may also be subject to criminal prosecution. After an apparent violation is identified, it is assessed in accordance with the Commission's Enforcement Policy. The Policy is published as NUREG-1600, "General Statement of Policy and Procedure for NRC Enforcement Actions," to foster its widespread dissemination. As a living policy statement, revisions are noticed in the *Federal Register*. The NRC's Office of Enforcement maintains the current policy statement on its homepage on the Internet at www.nrc.gov/OE. Because it is a policy statement and not a regulation, the Commission may deviate from the Enforcement Policy as appropriate under the circumstances of a particular case.

There are three primary enforcement sanctions available: Notices of Violation, civil penalties, and orders. A Notice of Violation (NOV) identifies a requirement and how it was violated, formalizes a violation pursuant to 10 CFR 2.201, and normally requires a written response. A civil penalty is a monetary fine issued under authority of Section 234 of the Atomic Energy Act (AEA) or Section 206 of the Energy Reorganization Act (ERA). Section 234 of the AEA provides for penalties of up to $100,000 per violation per day; but that amount was adjusted by the Debt Collection Improvement Act of 1996 to be $110,000. The Commission's order issuing authority under Section 161 of the AEA is broad and extends to any area of licensed activity that affects the public health and safety. Orders modify, suspend, or revoke licenses or require specific actions by licensees or persons. NOVs and civil penalties are issued based on violations. Orders may be issued for violations, or in the absence of a violation, because of a public health or safety issue.

The NRC first assesses the significance of a violation by considering: (1) actual safety consequences; (2) potential safety consequences; (3) potential for impacting the NRC's ability to perform its regulatory function; and (4) any willful aspects of the violation. Violations are either assigned a severity level, ranging from Severity Level IV for those of more than minor concern to Severity Level I for the most significant or are associated with findings assessed through the reactor oversight process's Significance Determination Process (SDP) that are assigned a color of green, white, yellow, or red based on increasing risk significance.

The manner in which a violation is dispositioned is intended to reflect the seriousness of the violation and the circumstances involved. Most of the violations identified in the nuclear industry are of low risk significance. Provided certain criteria in Section VI.A of the Enforcement Policy are met, the NRC will normally disposition Severity Level IV violations and violations associated with green SDP findings as Non-Cited Violations (NCVs). NCVs are documented in inspection reports (or inspection records for some materials licensees) to establish public records of the violations, but are not cited in NOVs which normally require written responses from licensees. Dispositioning violations in this manner does not eliminate the NRC's emphasis on compliance with requirements nor the importance of maintaining safety. Licensees are still responsible for maintaining safety and compliance and must take steps to address corrective actions for these violations. Even minor violations must be corrected. However, given their limited risk significance, they are not subject to enforcement action and are not normally described in inspection reports. This approach for violations that have low risk significance is consistent with the agency's performance goals.

A predecisional enforcement conference or a regulatory conference may be conducted with a licensee before making an enforcement decision if escalated enforcement action appears to be warranted, and if the NRC concludes that it is necessary or the licensee requests it. (Escalated enforcement action is defined as action involving Severity Level I, II, or III violations; violations associated with white, yellow, or red findings evaluated by the SDP; civil penalties; or orders.) If the NRC concludes that a conference is not necessary, it may provide a licensee with an opportunity to respond to the apparent violations before making an enforcement decision. The purpose of the conference is to obtain information that will assist the NRC in determining the appropriate enforcement action, such as: (1) a common understanding of facts, root causes and missed opportunities associated with the apparent violations, (2) a common understanding of corrective action taken or planned, and (3) a common understanding of the significance of issues and the need for lasting comprehensive corrective action. The decision to hold a conference does not mean that the agency has determined that a violation has occurred or that enforcement action will be taken. In accordance with the Enforcement Policy, conferences are normally open to public observation.

Civil penalties are normally assessed for Severity Level I and II violations and knowing and conscious violations of the reporting requirements of Section 206 of the Energy Reorganization Act. Civil penalties are considered for Severity Level III violations. Although civil penalties will not normally be used for violations associated with the ROP, civil penalties (and the use of severity levels) will be considered for issues that are willful, that have the potential for impacting the regulatory process, or that have actual consequences.

The NRC imposes different levels of civil penalties based on a combination of the type of licensed activity, the type of licensee, the severity level of the violation, and (1) whether the licensee has had any previous escalated enforcement action (regardless of the activity area) during the past 2 years or past two inspections, whichever is longer; (2) whether the licensee should be given credit for actions related to identification; (3) whether the licensee's corrective actions are prompt and comprehensive; and (4) whether, in view of all the circumstances, the matter in question requires the exercise of discretion. Although each of these decisional points may have several associated considerations for any given case, the outcome of the assessment process for each violation or problem, absent the exercise of discretion, is limited to one of the following three results: no civil penalty, a base civil penalty, or twice the base civil penalty.

If a civil penalty is to be proposed, a written Notice of Violation and Proposed Imposition of Civil Penalty is issued and the licensee has 30 days to respond in writing, by either paying the penalty or

contesting it. The NRC considers the response, and if the penalty is contested, may either mitigate the penalty or impose it by order. Thereafter, the licensee may pay the civil penalty or request a hearing.

In addition to civil penalties, orders may be used to modify, suspend, or revoke licenses. Orders may require additional corrective actions, such as removing specified individuals from licensed activities or requiring additional controls or outside audits. Persons adversely affected by orders that modify, suspend, or revoke a license, or that take other action may request a hearing.

The NRC issues a press release with a proposed civil penalty or order. All orders are published in the *Federal Register*.

Fiscal Year 2000 Highlights:

- two Enforcement Policy revisions
- 67 escalated Notices of Violation without civil penalties
- 16 proposed civil penalties ($446,600)
- 7 orders
- 4 orders imposing civil penalties

Office of Enforcement

The Office of Enforcement (OE) exercises oversight of NRC enforcement programs, provides programmatic and implementation direction to regional and headquarters offices conducting or involved in enforcement activities, and ensures that regional enforcement programs are adequately carried out.

The Office of Enforcement reports to the Executive Director for Operations (EDO) through the Deputy Executive Director for Reactor Programs and coordinates enforcement actions involving materials licensees with the Deputy Executive Director for Materials, Research and State Programs.

The Office of Enforcement has 15 full-time employees (FTEs) assigned for headquarters activities and 10 FTEs assigned for regional activities (although these FTEs report to the Regional Administrators).

1. Enforcement Policy Changes

This section describes the two revisions to the Enforcement Policy that were made during fiscal year (FY) 2000.

A. November 9, 1999: Assessing Significance; Elimination of Regulatory Significance; 10 CFR 50.59; Responsibilities

On November 9, 1999, the Commission published a complete revision of its Enforcement Policy in the ***Federal Register*** (64 FR 61142). The revision to the Enforcement Policy eliminated the term "regulatory significance" and with it the practice of escalating the severity level of a violation based on aggregation or repetitiveness. Under the revised Enforcement Policy, the NRC will consider the actual and potential safety consequences of a violation, whether it was willful, and its potential for impacting the NRC's ability to perform its regulatory function. The latter term encompasses a variety of reporting failures such as the failure to provide complete and accurate information to the NRC or the failure to notify the NRC of changes in licensed activities. In considering potential safety consequences, the revised Policy specifically states that risk information will be used whenever possible to increase or decrease the severity level of a violation. The revision made additional changes, including changes to conform to recent revisions to the requirements of Part 50.59 of the Commission's regulations, "Changes, tests and experiments," as well as editorial corrections and language clarification to assure consistency with recent policy changes. The intent of this Policy revision was to move towards a more risk-informed and performance-based approach.

B. May 1, 2000: Reactor Oversight Process; Interim Policy for Performance Indicator (PI) Data; 10 CFR 50.59; Inaccurate or Incomplete PI Data; Failure to Secure Licensed Material

On May 1, 2000, the Commission published a complete revision of its Enforcement Policy in the *Federal Register* (65 FR 25368). The major aspect of this revision incorporates the Interim Enforcement Policy that was used during the revised reactor oversight process (ROP) pilot plant study into the main body of the Enforcement Policy as permanent guidance.

The ROP's significance determination process (SDP) will be used to evaluate the actual and potential safety consequences of issues in a risk-informed framework and will provide an input into the enforcement process. Under this process, violations will normally be dispositioned as Non-Cited Violations (NCVs) for green SDP findings and be cited in Notices of Violation (NOVs) for white, yellow, or red SDP findings. Given the risk significance, NOVs associated with white, yellow, or red SDP findings will be considered escalated enforcement actions and will be posted on the Office of Enforcement's (OE's) website and included in OE's annual report. Civil penalties will not normally be used for violations associated with the ROP.

However, civil penalties (and the use of severity levels) will be considered for issues with actual consequences. Civil penalties and severity levels will also be used to address violations that are willful or that have the potential for impacting the regulatory process.

Because the submittal and review of performance indicator (PI) data is a new process as part of the ROP, this revision includes an interim Enforcement Policy for exercising enforcement discretion for inaccurate or incomplete PI data.

The new Policy makes additional changes, including: changing examples of violations for 10 CFR 50.59; adding examples of violations for inaccurate or incomplete PI data; changing examples of violations involving the failure to secure, or maintain surveillance over, licensed material; and editing existing guidance to assure clarity of existing policy and consistency with the intent of the Interim Enforcement Policy used during the revised ROP pilot.

2. Initiatives, Staff Guidance, & Implementation

This section addresses enforcement initiatives during FY 2000 (including ROP activities), new staff guidance, enforcement training, and enforcement program audits.

A. Reactor Oversight Process (ROP)

On August 9, 1999 (64 FR 43229), the NRC published an Interim Enforcement Policy that was used during the revised ROP Pilot Plant Study. The policy was developed as an integral part of the revised ROP and was designed to complement the structured performance assessment process by focusing on individual violations. After being successfully implemented through the pilot plant study, the NRC published a revised Enforcement Policy that incorporated the interim policy on May 1, 2000.

OE was significantly involved in the development of the revised ROP, including working groups that developed the Significance Determination Process (SDP) and baseline inspection program and implementation of the pilot program. Given the staff's experience, OE assumed the lead for developing implementing procedures for the SDP in Inspection Manual Chapter 0609. Similarly, enforcement staff are serving as process facilitators in enforcement/SDP panels, regulatory conferences, and caucuses.

In fiscal year 2000, OE participated in external stakeholder workshops, including the lessons learned workshop conducted 1/10 - 1/13/00, and revised ROP workshops in:

Lisle, IL; 2/22 - 2/24/00	Arlington, TX; 3/14 - 3/17/00
Atlanta, GA; 3/6 - 3/8/00	Philadelphia, PA 3/21 - 3/23/00

OE has and will continue to support the Technical Training Center and NRR in presenting course G-200, "Reactor Inspection and Oversight." During FY 2000, OE participated in the following sessions:

11/15 - 11/19/99	02/14 - 02/18/00	03/06 - 03/09/00	03/27 - 03/30/00
01/24 - 01/28/00	02/22 - 02/25/00	03/13 - 03/18/00	04/03 - 04/08/00
02/07 - 02/11/00	02/28 - 03/03/00	03/21 - 03/24/00	04/17 - 04/21/00

B. Discrimination Task Group

On July 27, 2000, the NRC established a management-level review group (Discrimination Task Group) to: (1) evaluate the Agency's handling of matters covered by its employee protection standards, (2) propose recommendations for improvements to the Agency's process for handling such matters, including revisions to guidance documents and regulations as appropriate, (3) to ensure that the application of the NRC enforcement process is consistent with the objective of providing an

environment where workers are free to raise safety concerns in accordance with the Agency's employee protection standards, and (4) to promote active and frequent involvement of internal and external stakeholders in the development of recommendations for changes to the process. The NRC announced the establishment of this group in a *Federal Register* notice that also stated that the group planned to hold several public stakeholder meetings in various areas of the country to solicit input on areas of improvement in the Agency's handling of discrimination issues.

Three public meetings were conducted during FY 2000:

- September 5, 2000, at the US NRC offices in Rockville Maryland.
- September 7, 2000, at the US NRC Technical Training Center, Chattanooga, Tennessee.
- September 14, 2000, at the Embassy Suites Hotel, San Luis Obispo, California.

In a continuing effort to promote active and frequent involvement of internal and external stakeholders, OE established a website off of its homepage to address the activities of the Discrimination Task Group. This website includes a variety of information about the Discrimination Task Group, including the announcement of its formation and its charter, as well as information about upcoming meetings and background information on the subject of discrimination. The website also includes an Online Form for public comments. This Online Form is also included in the agency's collection of Online Forms accessible from the Public Involvement icon.

The Discrimination Task Group plans on conducting additional public meetings in FY 2001 and plans on issuing a final report with recommendations in the summer of 2001.

C. Enforcement Actions Against Individuals

Enforcement actions involving individuals is an area that the agency takes very seriously. This issue is currently addressed in Section VIII of the Enforcement Policy. The enforcement staff has established an internal working group to evaluate and propose recommendations for improvements to this section of the Enforcement Policy, including clarification on the thresholds for issuing individual enforcement sanctions. The working group plans on soliciting internal and external stakeholder comments in the development of recommendations for changes to the Enforcement Policy.

D. Materials Program Support & Initiatives

OE reviews and concurs on rulemakings related to the materials program to ensure the proposed and final rules and the Enforcement Policy and procedures are consistent. In doing so, OE makes any necessary changes to the Enforcement Policy or procedures. Significant rulemakings completed in FY 2000 include the revisions to 10 CFR Part 35, "Medical Use of Byproduct Materials" and 10 CFR Parts 30, 31, and 32 concerning distribution and use of general licensed devices. OE participated on working groups for these rulemakings and developed related changes to the Enforcement Policy and Enforcement Manual. Also, OE served as a working group member on the proposed rulemaking regarding event reporting for unintended exposures to an embryo/fetus or to a nursing child under non-medical circumstances.

During this fiscal year, OE recommended changes the Enforcement Policy to increase the value of civil penalties for cases involving loss or unauthorized disposal of licensed sealed sources. The recommended policy change provides that cases involving loss of a sealed source will normally result in assessment of a civil penalty of at least three times the cost of authorized disposal. This change

was necessary to support the NMSS initiative to improve licensees' accountability of sealed sources and devices. The Commission approved the Policy revision on July 11, 2000. The Policy will become effective in the next fiscal year in conjunction with the final rule.

As necessary, OE serves as a member of 10 CFR 2.206 Petition Review Boards, Allegation Review Boards, and NRC Bankruptcy Review Teams to provide guidance and support on associated enforcement issues.

E. Reactor Program Support & Initiatives

In addition to activities associated with the ROP, the enforcement staff have supported other initiatives in the reactor program.

OE reviews and concurs on rulemakings related to the reactor program to ensure the proposed and final rules and the Enforcement Policy and procedures are consistent. In doing so, OE makes any necessary changes to the Enforcement Policy or procedures.

During fiscal year 2000, the enforcement staff worked with NRR in developing an enforcement approach to address revisions to 10 CFR 50.59, "Changes, tests, and experiments," that would be consistent with the ROP framework. Enforcement staff successfully worked with NRR in developing an approach that was consistent with the agency's performance goals of reducing unnecessary burden and improving efficiency and effectiveness, while simultaneously improving public confidence by developing a methodology that was predictable. OE assisted NRR in commenting on the industry's guidance on the new rule, which was eventually endorsed by the Commission for publication as Regulatory Guide 1.187. OE has provided training to both internal and external stakeholders on enforcement of the new rule. OE has and will continue to conduct review panels with NRR, OGC, and the region to evaluate all potential 10 CFR 50.59 violations during the transition period between the new rule and the old rule.

OE also continues to conduct review panels with NRR, OGC, and the region to evaluate all proposed violations of 10 CFR 50.65, "Requirements for monitoring the effectiveness of maintenance at nuclear power plants" (the Maintenance Rule). The performance-based nature of this rule poses a continuing challenge to inspectors in identifying violations. These panels ensure a high level of consistency for determining when violations of the Maintenance Rule have occurred. OE will continue to conduct these panels as the additional section of the Maintenance Rule requiring risk assessments prior to maintenance becomes effective. Based on lessons learned by these panel activities, OE established a working group of OE, NRR, OGC, and regional representatives to develop comprehensive Maintenance Rule enforcement guidance that would eliminate the need for the panels to ensure consistency and identification of Maintenance Rule violations. The working group plans on soliciting internal and external stakeholder comments in the development of this guidance that would be placed in the Enforcement Manual.

Another challenge facing the agency is the appropriate treatment and regulatory response to security matters at nuclear facilities. Physical protection against the threat of radiological sabotage or theft of nuclear material is a fundamental obligation of all licensees. Drills using mock adversaries (force-on-force exercises, such as Operational Safeguards Response Evaluations (OSREs)) are an important method for evaluating the effectiveness of licensee's protective strategies. When the staff proposed the revised ROP, bench marking and feasibility reviews were completed for the SDPs, including the physical protection SDP. However, the bench marking and feasibility for the physical protection

SDP did not include detailed consideration of OSREs or other force-on-force exercises. In evaluating the first OSRE to be performed under the ROP, the SDP produced a significance determination that was substantially inconsistent with past positions (in that it was more significant) and did not appear appropriate for the circumstances. OE took an integral part in developing a recommendation to the Commission to address this issue. OE will continue to work with NRR in developing and implementing any necessary guidance based on the Commission's decision on this matter.

F. Alternative Dispute Resolution

The Administrative Dispute Resolution Act (Act) of November 15, 1990, requires, in part, that agencies examine alternative means of resolving disputes in connection with enforcement actions. As required by the Act, the agency developed a policy in 1992 (57 FR 36678) to address what has come to be known as Alternative Dispute Resolution (ADR). The policy states that opportunities may arise for use of ADR in enforcement.

The enforcement staff is actively working with the Office of the General Counsel (OGC) to explore the use of an ADR policy in the NRC enforcement arena. A proposal is due to the Commission in 2002.

While it appears that other agencies have used ADR in the area of civil enforcement, its use in the NRC enforcement process poses significant challenges. Specifically, the use of ADR appears to cause conflict between two of the agency's performance goals: increasing public confidence and making activities and decisions more effective, efficient, and realistic. While some efficiency may be gained, public confidence may be eroded by the confidentiality premises of ADR.

The enforcement staff is evaluating these issues, along with others, as they work to propose an ADR policy for the Commission. The enforcement staff plans on soliciting internal and external stakeholder comments in the development of recommendations for an ADR policy.

G. Increasing Public Confidence

The NRC views building and maintaining public trust and confidence that the NRC is carrying out its mission as an important performance goal for the agency. To reach this goal, the NRC must be viewed as an independent, open, efficient, clear and reliable regulator. This will be accomplished by providing our stakeholders with clear and accurate information about, and a meaningful role in, our regulatory programs.

Since its initial publication in 1980, the NRC Enforcement Policy has been structured to emphasize the importance of compliance with regulatory requirements, and to encourage prompt identification, and prompt, comprehensive correction of violations. However, because of the recent significant changes and the somewhat complex and esoteric nature of enforcement, the general public, and many of our stakeholders do not fully understand how the enforcement program works.

The Commission took a major step to be more open in 1996 when it published a revision to the Policy to provide that most predecisional enforcement conferences will be open to public observation. Since then, the NRC has taken additional steps to provide meaningful opportunities to participate in the enforcement program.

OE wants to actively engage stakeholders to educate them on how the enforcement program is changing to support new initiatives in the agency's oversight programs in conjunction with meeting the agency's performance goals of maintaining safety; reducing unnecessary burden; making NRC activities and decisions more effective, efficient, and realistic; and increasing public confidence. OE has and will continue to conduct more stakeholder meetings to address the enforcement program and enforcement issues. In addition to the ROP workshops and Discrimination Task Group public meetings, enforcement staff have participated in the following enforcement stakeholder activities:

- The Director, OE, served as a panelists in two breakout sessions at the 12th annual Nuclear Regulatory Information Conference (RIC). On March 28, 2000, he addressed enforcement issues during the Revised Reactor Oversight Process session and on March 29, 2000, he addressed the enforcement process for discrimination issues during the Work Environment Issues session.

- The enforcement staff provided a presentation on the changes to the Enforcement Policy involving 10 CFR 50.59, "Changes, tests, and experiments," at a Nuclear Energy Institute (NEI) licensing issues workshop April 10-11, 2000.

- The Region III enforcement staff provided training for new DOL and OSHA investigators on the NRC's allegation and enforcement processes and the interactions with DOL and OSHA on discrimination cases on May 11, 2000.

- The Region III enforcement staff provided a presentation at a regional OSHA investigator counterpart meeting on the NRC's allegation and enforcement processes and the interactions with DOL and OSHA on discrimination cases in June 2000.

- The enforcement staff provided a presentation on the materials enforcement program at a workshop for doctoral students from the Medical University of South Carolina on June 7, 2000.

- The enforcement staff in Region IV provided a presentation on the recent changes to the Enforcement Policy to the American Society for Quality, Energy & Environmental Division on August 29, 2000.

In addition to these activities, in a continuing effort to collaborate with the international nuclear community, the enforcement staff participated with OGC in a week long exchange of information with technical and legal representatives of the nuclear regulatory body of Ukraine in June 2000. This Lisbon Initiative activity provided the Ukrainian representatives with detailed information on the NRC enforcement program as a potential basis for a similar program for the Ukraine.

To provide accurate and timely information to all interested stakeholders and enhance the public's understanding of the enforcement program, OE continues to electronically publish enforcement information on its home page on the Internet, including the current Enforcement Policy; copies of significant enforcement actions issued to reactor and materials licensees and individuals since 1996; and upcoming predecisional enforcement conferences. During FY 2000, OE modified the web site to include a web page to address information and activities of the Discrimination Task Group. OE also provides summaries of significant enforcement actions issued to materials licensees through the NMSS Newsletter.

In an effort to increase stakeholder involvement in Enforcement Policy and guidance development, OE established a public participation page on the enforcement web site. OE has and will continue to

use this site as a way for interested stakeholders to provide input on various enforcement issues (such as the Discrimination Task Force) through online comment forms. The Internet address for OE's home page is: www.nrc.gov/OE.

H. Revision 3 of NRC Enforcement Manual

On June 1, 2000, OE issued a complete revision of the NRC Enforcement Manual (Manual) on its website. This Manual supercedes the previous version, NUREG/BR-0195, Rev.2 in its entirety and incorporates the majority of Enforcement Guidance Memoranda (EGMs) previously listed on the web.

The Manual reflects NRC organizational changes; changes in enforcement and agency practices; and recent Enforcement Policy revisions; including the elimination of regulatory significance, and the addition of the reactor oversight process (ROP) and the Significance Determination Process (SDP).

Although specific guidance on the ROP is included in the NRC Inspection Manual, enforcement-related aspects are included in the Manual (including a standard format letter for issuing escalated Notices of Violation that are associated with white, yellow, or red SDP findings; Form 3-II in Appendix B). The Manual and EGMs remain the governing documents for enforcement-related activities.

I. Enforcement Guidance Memoranda (EGMs)

Because the enforcement process changes from time to time, temporary or expedited enforcement guidance may need to be issued. The normal method for the Director, OE, to issue this enforcement guidance is through the issuance of an EGM. EGMs are normally used to transmit temporary guidance, but may also be used to transmit expedited guidance for Enforcement Policy application or enforcement program implementation.

Three EGMs were issued in fiscal year 2000.

- EGM 99-008 - Enforcement Discretion Pertaining to Violations of Technical Specifications That Apply to the Laboratory Testing of Nuclear-Grade Activated Charcoal - Issued December 8, 1999.

- EGM 99-006, Rev. 1 - Extension of the Guidance for Implementation of the Interim Enforcement Policy for Use During the Reactor Oversight Pilot Program - December 20, 1999.

- EGM 00-001 -Application of the Enforcement Policy in Conjunction With the Revised Reactor Oversight Process - Issued March 30, 2000.

J. Enforcement Training

Successful communication for internal stakeholders is vital to ensure that the enforcement program is both understood and acknowledged as an integral, valuable piece of the agency's regulatory programs. OE has and will continue to conduct training to address the enforcement program and emerging enforcement issues. In addition to the training provided in G-200, "Reactor Inspection and Oversight," headquarters enforcement staff have provided internal stakeholders with the following training:

- Enforcement staff provided training on recent changes to the Enforcement Policy and program to Region III management in October 1999.

- Enforcement staff provided training on recent changes to the Enforcement Policy and program to Region IV management in October 1999.

- Enforcement staff provided training as part of NRR's presentation on the RROP to Region III staff in February 2000.

- Enforcement staff provided training as part of NRR's presentation on the RROP to Region I staff in March 2000.

- The Director provided training on recent changes to the Enforcement Policy and program to participants at the health physics counterpart meeting in June 2000.

The regions also provided training on the enforcement program in the regional offices.

- Region I enforcement staff provided training to Region I Division of Nuclear Materials Safety in May 2000. The training addressed a number of issues, including: (1) handling and documentation of Severity Level IV violations, (2) use of NRC Form 591, (3) handling of minor violations, (4) enforcement for violations involving the loss of security of radioactive material, and (5) consideration of Agreement State enforcement for licensees operating under reciprocity.

- Region II enforcement staff provided training on changes to the Enforcement Policy and the new ROP to the Division of Reactor Safety inspectors in March 2000 and to the resident and region-based inspection staffs at the Regional Counterpart Meeting in September 2000.

- Region III enforcement staff provided training to Region III Division of Nuclear Materials Safety on July 27, 2000. The training addressed coordination with OI on OI cases and processing resulting enforcement actions. The training incorporated lessons learned from audits and previous cases in Region III.

- Region IV enforcement staff provided training to Region IV staff on a number of occasions to address the changes to the Enforcement Policy, including the elimination of "regulatory significance," and the process of aggregation and the ROP. Training for the Division of Nuclear Materials Safety was conducted on October 7, 1999, and training for the Division of Reactor Safety was conducted on November 9, 1999. All technical staff were provided training on December 1 and December 7, 1999. Resident inspectors were provided training in three different sessions in March 2000.

K. Audits

OE staff lead specific topic focused audits of the Regional and program office enforcement programs to identify inconsistent application of the Enforcement Policy and enforcement guidance.

Audit of Reactor Non-Cited Violations - 3/15/00

OE with the assistance of the regional offices performed an audit of Non-Cited Violations (NCVs) to determine the level of consistency in documenting NCVs in accordance with the guidance in the Enforcement Policy, EGM 99-002, and NRC Inspection Manual Chapter 0610. The audit placed particular attention on whether each NCV writeup adequately and clearly stated the regulatory requirement and how the requirement was violated. A total of 38 inspection reports from non-pilot oversight inspection plants were reviewed. Those reports covered inspection periods from October through December 1999.

The audit determined that, for the most part, NCVs are documented consistent with NRC guidance. The audit identified that 14 of the 38 reports reviewed contained one or more findings related to NCV documentation. Some of the findings represented deviations from NCV documentation guidance while other findings were more editorial or administrative in nature. The audit identified five NCVs which did not adequately or correctly state the regulatory requirement and/or how the requirement was violated. None of those five findings were considered to be significant.

Audit of NRC Form 591, "Safety and Compliance Inspection" - 6/30/00

OE with the assistance of the Office of Nuclear Materials Safety and Safeguards (NMSS) and the regional offices, performed an audit of the use of NRC Form 591 to determine whether inspectors are using the NRC Form 591 for its correct purpose, whether Form 591s are correctly completed, and whether other inspections could have utilized a Form 591. NRC Form 591 may be used for certain inspections of materials licensees. Form 591 summarizes the findings of an inspection related to radiation safety and compliance and depending on the circumstances, indicates that: (1) no violations were identified, (2) NCVs were identified, or (3) violations were identified. If used to indicate the existence of violations, Form 591 serves as the official NOV.

A total of 106 inspections where a Form 591 was issued were audited. In addition, 26 inspections involving non-escalated enforcement, where a Form 591 was not issued, were audited.

The audit report included the following conclusions and recommendations:

- Documenting Corrective Actions in Inspection Records. The requirement to document corrective actions in inspection records is included in Manual Chapter 2800. However, it was deleted from the last revision of the Enforcement Manual. By the end of September 2000, unless NMSS or the Regions express specific concerns, OE plans to revise the Enforcement Manual to include this requirement for use of NRC Form 591. Documenting corrective actions in inspections records was the only concern with the use of Form 591s identified as a result of the audit. Fourteen percent (15/106) of all Form 591s reviewed were deficient in that they did not have a description of corrective actions in the inspection records. Therefore, inspectors should ensure that they are documenting corrective actions for violations in inspection records when they issue a Form 591.

- Tracking Non-Escalated Enforcement Actions. There is no formal mechanism for tracking non-escalated enforcement actions for materials licensees. NMSS may want to consider having a tracking system for non-escalated actions. NRR is already tracking similar actions for its licensees. In the interim, NMSS may want to consider standard formats for ADAMS that would allow some level of tracking of non-escalated actions.

- While there are no conclusions about the extent of utilization of Form 591s, Regional management may want to consider encouraging use of Form 591s to improve inspection efficiency.

Audit of Headquarters Part 71 Inspections - 9/27/00

OE and NMSS performed an audit of the Spent Fuel Project Office (SFPO) 10 CFR Part 71 inspections to determine whether inspectors in SFPO were documenting and dispositioning 10 CFR Part 71 inspection findings in accordance with the Enforcement Policy and Manual.

SFPO identified seven inspections performed over the last two years and provided to the auditors copies of the inspection reports, including cover letters, Notices of Violations, and Notices of Nonconformances, and the licensees' responses. The auditors met with SFPO staff on September 25, 2000, to discuss the inspections, the procedures that SFPO is using to disposition inspection findings, and preliminary audit results. The results, conclusions, and recommendations were subsequently discussed with the staff.

The audit report included the following conclusions and recommendations:

- Dispositioning Findings in Accordance with the Enforcement Policy and Manual. The auditors identified three areas where SFPO is not following the guidance in the Enforcement Policy or Manual when dispositioning Nonconformances. First, SFPO is following the policy for dispositioning Severity Level IV violations for reactor licensees to disposition Nonconformances. Specifically, though not provided for in the Enforcement Manual, SFPO is dispositioning some Nonconformances in a manner similar to non-cited violations for reactor licensees. Second, consistent with the Enforcement Manual, SFPO is not assigning severity levels to Nonconformances. However, SFPO is rating the significance of Nonconformances in the inspection reports using the undefined terms minor, low, and moderate. Third, SFPO is not using the standard formats in the Enforcement Manual for cover letters forwarding inspection reports and finding.

  Recommendation: It is recommended that the OE Enforcement Specialist, NMSS Enforcement Coordinator, and SFPO staff meet to determine whether any changes are needed to the Enforcement Policy or Manual in order to support the SFPO inspection program. If it appears changes are necessary, OE and NMSS should coordinate with the Quality Assurance, Vendor Inspection, Maintenance, and Allegations Branch (IQMB), NRR, and the NRR Enforcement Coordinator, in order to ensure a consistent approach to dispositioning Nonconformances.

- Citing Violations Versus Nonconformances. The criteria for dispositioning a finding as a violation versus a nonconformance is not clear. This may have led, or could lead, to incorrectly dispositioning a nonconformance or violation. SFPO makes the decision of whether to disposition a finding as a violation or nonconformance on a case-by-case basis using verbal guidance provided by OGC and, in some cases, choosing to disposition a finding as a nonconformance when it could be a violation.

  Recommendation: It is recommended that the OE Enforcement Specialist, NMSS Enforcement Coordinator, and SFPO staff work with OGC to develop written guidance for determining when a finding is a violation versus a nonconformance. The guidance should be included in inspection procedures or the Enforcement Manual. The guidance should state that if a finding is a violation, it is dispositioned as a violation and not a nonconformance. The criteria used to distinguish between violations and Nonconformances should be based on the applicable section in Part 71, whether it

involved a licensee or certificate holder, and the circumstances surrounding the finding (e.g., whether a shipment of material occurred).

- Including Observations in Inspection Reports. The inspection reports include observations. However, the inspection reports do not clearly state that these issues are neither violations nor Nonconformances.
  Recommendation: It is recommended that SFPO clearly indicate that issues are neither Nonconformances nor violations to ensure that licensees and certificate holders do not incorrectly perceive discussion of the issues as not complying with regulatory requirements.

Regional Audits

In addition to the headquarters lead audits, the regional enforcement staff also conducted audits of the region's enforcement program. During this fiscal year, the regions routinely reviewed non-escalated reactor and materials enforcement actions to determine: (1) if enforcement issues were adequately described in the inspection reports and if they were properly dispositioned in accordance with the Enforcement Policy and applicable enforcement guidance; and (2) if violations were properly documented and received the appropriate significance categorization either by SDP color or severity level. The audits determined that, for the most part, non-escalated actions were properly dispositioned in accordance with NRC guidance. Some issues that were identified included insufficient documentation, failure to follow process procedures in soliciting OE review, and failure to use standard language in enforcement correspondence.

During this fiscal year, Region I enforcement staff also performed a self-assessment of Region I's handling of Task Interface Agreement requests completed by NRR during fiscal year 2000. Region II enforcement staff routinely participated in Division led peer reviews of inspection reports to ensure inspection report clarity, compliance with Agency policies and procedures (e.g., Manual Chapter 0610*), and whether inspection findings were adequately supported by the report details. In addition to audits, Region IV's enforcement staff participated in nearly all inspection debriefings for reactor and materials inspections to assure that violations of requirements were being properly dispositioned.

3. Escalated Enforcement and Administrative Items

During fiscal year 2000, the agency issued 94 individual escalated enforcement items.

Note that an enforcement case or enforcement action issued to a licensee may include more than one individual enforcement item (e.g., a civil penalty and an escalated NOV without a civil penalty).

Escalated NOVs are individual Severity Level I, II, or III violations issued without a civil penalty and individual violations associated with white, yellow, or red SDP ROP findings.

Figure 3 on page 17 includes a numerical breakdown of escalated enforcement items issued by each regional

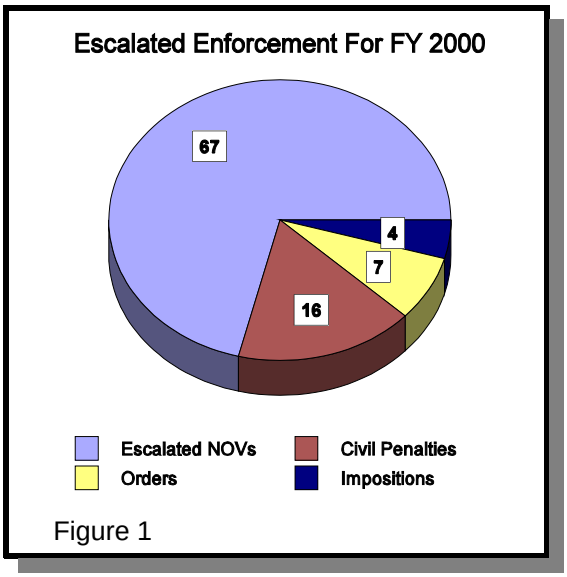

Figure 1

office. Figure 4 on page 19 provides a breakdown of escalated enforcement items based on the type of licensee, vendor, or individual.

Timeliness of Enforcement Actions

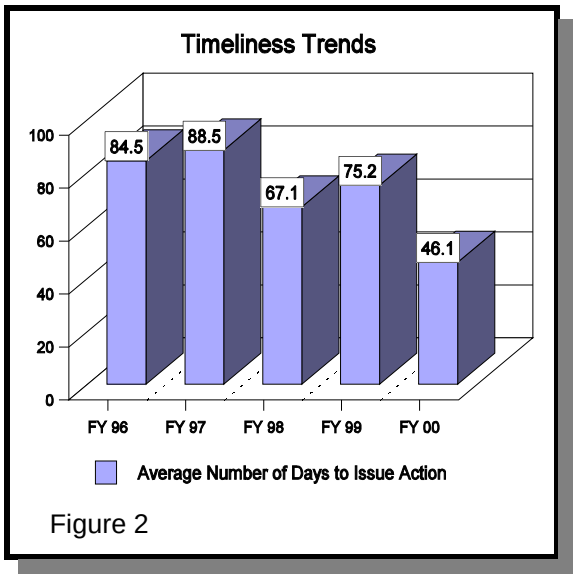

Figure 2

The average time to issue escalated enforcement actions (excluding orders) is a performance measure used by the NRC.

For actions that do not involve an investigation, the measurement period begins on the date of the inspection exit meeting. For actions that involve an investigation, but no referral to the Department of Justice (DOJ), the measurement period begins on the date of issuance of the report of investigation. For actions that involve an investigation and referral to DOJ, the measurement period begins on the date DOJ informs the NRC that the NRC may proceed with civil action. For actions that involve discrimination and Department of Labor (DOL) proceedings, the measurement period begins when there is an appropriate decision in the DOL process or sufficient evidence from the NRC's processes to support actions.

On the basis of the defined measurement period, escalated enforcement actions (excluding orders) are to be issued within an average of no more than 90 days.

During fiscal year 2000 this standard was met, with enforcement actions issued in an average of 46.1 days.

A. Escalated Notices of Violation (Without Civil Penalties)

During fiscal year 2000, the agency issued 67 escalated Notices of Violation (without civil penalties). (This number reflects the number of enforcement issues versus the number of enforcement cases issued during the year.) Twenty two of these items were issued to individuals and one was issued to a vendor. See Section 5 for more information on enforcement items issued to individuals and other non-licensed persons (i.e., vendors and certificate holders). Six of these issues were associated with a white SDP finding from the ROP. Appendix A includes a short summary description of each of the enforcement issues issued to licensees.

B. Civil Penalty Actions

During fiscal year 2000, the agency issued 16 civil penalty issues. Appendix B includes a short summary description of each of these items. Table 2 includes statistical information on civil penalties. As stated before, an enforcement action may include more than one individual civil penalty issue.

C. Orders

During fiscal year 2000, the agency issued seven orders. Four of these orders were issued to licensees while three were issued to individuals. (See Section 5 for more information on enforcement actions issued to individuals, vendors, and certificate holders.) Appendix C includes a short summary description of the four orders issued to licensees. In addition to these orders, four civil penalty imposition orders were issued.

D. Demands for Information

A Demand for Information is an administrative enforcement tool issued to a licensee or other person that enables the NRC to determine whether an order or other enforcement action should be issued. OE did not issue any Demands for Information (DFI) during fiscal year 2000.

E. Escalated Enforcement Trends

During fiscal year 2000, the agency issued 94 individual escalated issues. Figure 5 show graphical representations of enforcement trends since fiscal year 1995. Table 2 also shows civil penalty statistical comparisons.

It should be noted that direct correlations between the fiscal years is difficult because of the major policy changes that have occurred over the years. The reduction in the number of escalated enforcement actions is the result of the agency's efforts in establishing an Enforcement Policy that strives to be more risk-informed and performance-based.

4. Cases Involving Exercise of Discretion

Section VII of the Enforcement Policy addresses those cases where, notwithstanding the normal guidance contained in the Policy, the NRC may choose to exercise discretion and either escalate or mitigate enforcement sanctions within the Commission's statutory authority to ensure that the resulting enforcement action takes into consideration all of the relevant circumstances of the particular case. During FY 2000, nine cases that would be considered escalated involved an exercise of discretion.

Section VII.A

Section VII.A of the Enforcement Policy provides that the NRC may increase a sanction up to its full enforcement authority where the action is warranted without applying the normal civil penalty assessment process (Section VI.C.2). It also provides for either increasing the amounts of civil penalties or proposing civil penalties where the normal process would result in no civil penalty. During FY 2000, two cases involved this exercise of discretion.

Spectrum Pharmacy, Inc ***EA 00-071***

Although application of the civil penalty assessment process would not normally have resulted in a civil penalty, the NRC exercised discretion and proposed a civil penalty of $2,750 because of the licensee's particularly poor performance during the vial rupture and subsequent evaluation of facility, staff and package contamination.

Tennessee Valley Authority ***EA 99-234***

Although application of the civil penalty assessment process would have resulted in a $88,000 civil penalty, the NRC exercised discretion and proposed a civil penalty of $110,000 (the maximum allowable penalty) to emphasize the significance of the particular case of employment discrimination.

Section VII.B.1

This section is currently marked as "reserved" in the Enforcement Policy.

Section VII.B.2

Section VII.B.2 provides that civil penalties or NOVs need not be issued for violations identified during extended shutdowns or work stoppages if they are licensee-identified, based upon activities prior to the events leading to the shutdown, non-willful, and not categorized at Severity Level I. This exercise of discretion provides that the licensee's decision to restart the plant requires NRC concurrence. During FY 2000, no cases involved this exercise of discretion.

Section VII.B.3

Section VII.B.3 provides that civil penalties or NOVs need not be issued for old design issues that are licensee-identified and corrected and were not likely to have been identified earlier through routine surveillance. During FY 2000, one case involved this exercise of discretion.

U.S. Enrichment Corporation ***EA 99-176***

Although the design deficiency associated with the calibration setpoint for the criticality accident alarm system would normally be considered for significant enforcement action, the NRC exercised discretion and refrained from issuing an action because it was an old design issue that met the criteria for discretion.

Section VII.B.4

Section VII.B.4 provides that civil penalties or NOVs need not be issued for violations identified due to previous escalated enforcement action if the violation was licensee-identified, it has a similar root cause as a previous escalated action, it does not substantially change the regulatory concern out of the initial action, and it was corrected. During FY 2000, no cases involved this exercise of discretion.

Section VII.B.5

Section VII.B.5 provides that civil penalties or NOVs need not be issued for violations involving discrimination issues if they are licensee-identified and corrected. During FY 2000, no cases involved this exercise of discretion.

Section VII.B.6

Section VII.B.6 provides that civil penalties or NOVs need not be issued for violations involving special circumstances. During fiscal year 2000, six cases involved this exercise of discretion.

Alonso & Carus Iron Works, Inc. ***EA 99-292***

The NRC exercised discretion (as discussed in Information Notice 99-22) and refrained from issuing enforcement action for the licensee's failure in allowing an individual to act as a radiographer without required certification because of the licensee's good-faith effort to comply with the regulations.

Commonwealth Edison Co. ***EA 99-288***

The NRC exercised discretion and refrained from issuing an enforcement action for inaccurate historical performance indicator data in accordance with the interim policy regarding the completeness and accuracy of performance indicator information.

Hawaiian Eye Clinic and Sugicenter ***EA 00-059***

Although the normal civil penalty assessment process would have resulted in a civil penalty, the NRC exercised discretion and did not propose a penalty because the licensee voluntarily suspended use of licensed material (Sr-90 eye applicators), transferred the material, and requested termination of the NRC license.

Northern States Power Co. ***EA 99-208***

The NRC exercised discretion and refrained from issuing an enforcement action for inaccurate historical performance indicator data in accordance with the interim policy regarding the completeness and accuracy of performance indicator information.

Northern States Power Co. ***EA 99-295***

The NRC exercised discretion and refrained from issuing an enforcement action for inaccurate historical performance indicator data in accordance with the interim policy regarding the completeness and accuracy of performance indicator information.

United States Enrichment Corporation ***EA 99-110***

Although the normal civil penalty assessment process would have resulted in a $166,000 civil penalty, the NRC exercised discretion in recognition of the broad measures the Corporation took and planned to take to improve the nuclear safety conscious work environment and issued a $88,000 civil penalty.

5. Actions Against Individuals, Vendors, & Certificate Holders

During FY 2000, the agency issued 26 actions against individuals, vendors, and certificate holders. The following sections provide a breakdown of the actions based on whether the actions were issued to licensed or non-licensed individuals, or vendors or certificate holders. The section on orders includes orders that were issued to individuals that prohibited or limited their activities in NRC-licensed activities during the fiscal year.

A. Actions Against Licensed Individuals

During FY 2000, the agency issued three NOVs to licensed individuals. Appendix D includes a short summary description of these actions.

B. Actions Against Non-Licensed Individuals

During FY 2000, the agency issued three orders and 19 NOVs to non-licensed individuals. Appendix D includes a short summary description of each of these actions.

C. Actions Against Vendors and Certificate Holders

During FY 2000, the agency issued one NOV to a vendor. Appendix E includes a short summary description of this action.

6. Cases Involving Discrimination

The NRC vigorously pursues enforcement action against licensees or licensee contractors who discriminate against their employees for raising nuclear safety concerns. Acts of discrimination include discharge and other adverse actions that relate to an employee's compensation, terms, conditions, or privileges of employment.

The NRC places a high value on nuclear industry employees being free to raise potential safety concerns, regardless of the merits of the concern, to both licensee management and the NRC. Unlawful adverse actions taken against employees for raising safety concerns may create a "chilling effect" on the employee or other workers who may wish to raise concerns. That is, the employees may not feel that they are free to raise concerns without fear of retaliation.

Therefore, one of the goals of the NRC's enforcement program is to ensure, through appropriate enforcement action against a licensee or licensee contractor (and when warranted, against the individual personally responsible for the act of discrimination), that adverse employment actions taken against licensee or contractor employees for raising safety concerns do not have a chilling effect on the individual or others who may wish to report safety concerns.

During FY 2000, the agency issued 11 enforcement actions for violations involving discrimination. Six actions were issued to licensees, four were issued to individuals, and one was issued to a vendor. These cases are listed here and discussed further in the appropriate appendix.

American Electric Power Company	***NOV***	***EA 99-329***
Commonwealth Edison Company	***NOV***	***EA 99-313***
Commonwealth Edison Company	***$110,00 Civil Penalty***	***EA 98-518***
Tennessee Valley Authority	***$110,000 Civil Penalty***	***EA 99-234***
United States Enrichment Corporation	***$88,000 Civil Penalty***	***EA 99-110***
V. A., Philadelphia Department of	***$5,500 Civil Penalty***	***EA 00-086***
Rob Grant	***NOV***	***IA 00-038***
Jorge A. Labarraque	***NOV***	***IA 99-059***

Wilson C. McArthur	***NOV***	***IA 99-043***
Thomas J. McGrath	***NOV***	***IA 99-044***
Numanco, L.L.C	***NOV***	***EA 99-314***

Figure 6 on page 25 includes escalated enforcement trends since fiscal year 1995 for discrimination cases.

7. Hearing Activities

During FY 2000, one case had some type of hearing activity, i.e., hearing request, settlement, dismissal, discovery, hearing proceeding, appeal, etc. Appendix F includes a short summary of this case.

8. 10 CFR 2.206 Petitions

During FY 2000, there were two case that had some type of petition activity pending before the Office of Enforcement during the fiscal year, i.e., petition request, NRC staff review, Director's Decision, etc. Appendix G includes a short summary of each of these cases.

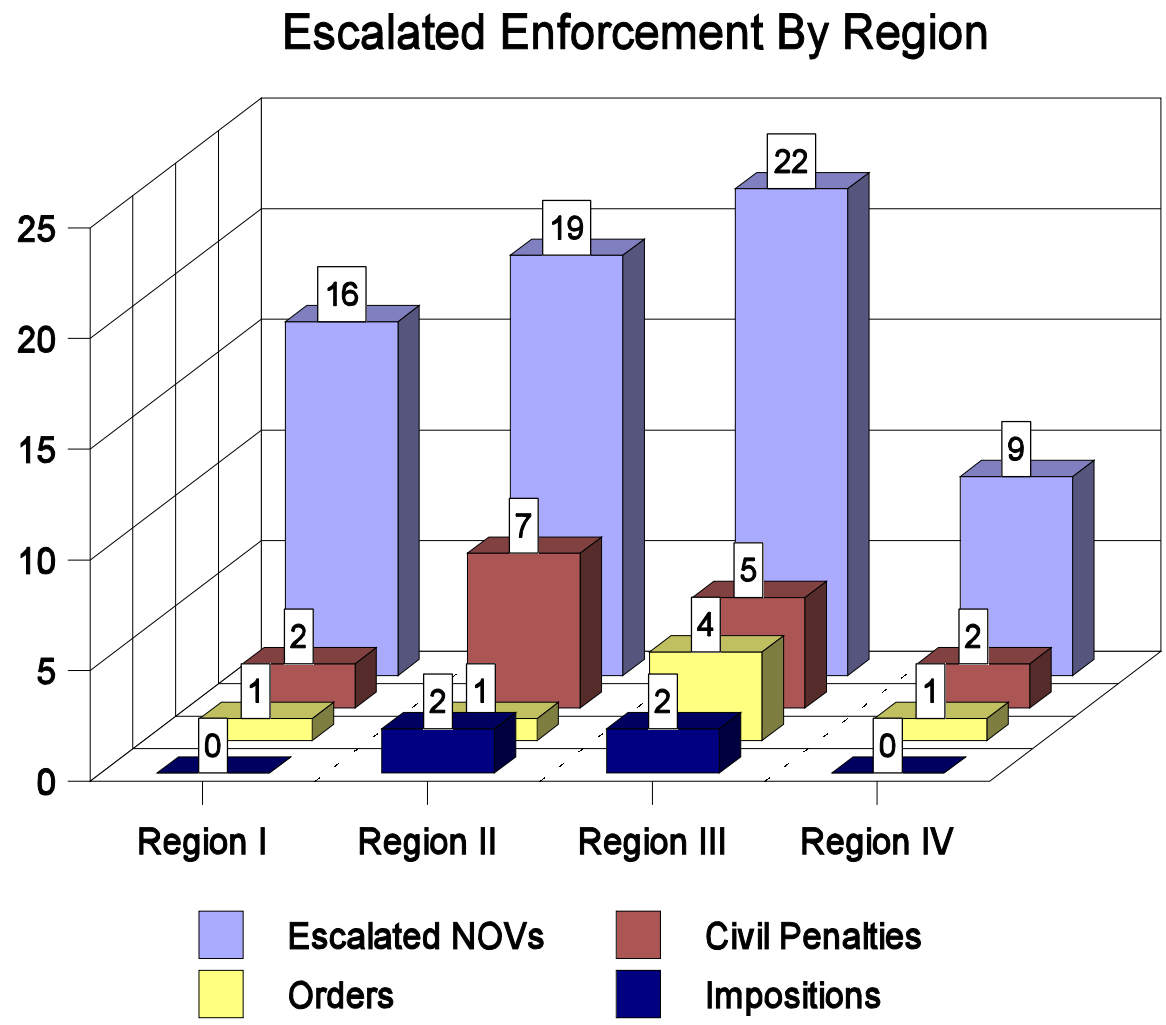
Escalated Enforcement By Region
25
20
15
10
5
0
16
19
22
9
2
7
5
2
1
2
4
1
0
2
1
0
Region I
Region II
Region III
Region IV
Escalated NOVs
Civil Penalties
Orders
Impositions

Figure 3

TABLE 1: ESCALATED ENFORCEMENT ITEMS BY TYPE OF LICENSEE, VENDOR, OR INDIVIDUAL

Type of Licensee	Escalated NOVs (w/o penalty)	Civil Penalties	Orders	Impositions	Total FY 00
Academic	0	1	0	0	1
Physician	1	1	0	0	2
Fuel Facility	1	1	0	0	2
Gauge User	7	2	2	2	13
Hospital	12	2	0	0	14
Irradiator	0	0	0	0	0
Radiographer	4	2	0	0	6
Pharmacy	1	2	1	0	4
Operating Reactor	18	3	1	2	24
Research Reactor	0	0	0	0	0
Materials Distributer	0	0	0	0	0
Mill	0	0	0	0	0
Other	0	0	0	0	0
Waste Disposal	0	0	0	0	0
Well Logger	0	2	0	0	2
Vendor	1	0	0	0	1
Licensed Individual	3	0	0	0	3
Non-Licensed Individual	19	0	3	0	22
Total	67	16	7	4	94

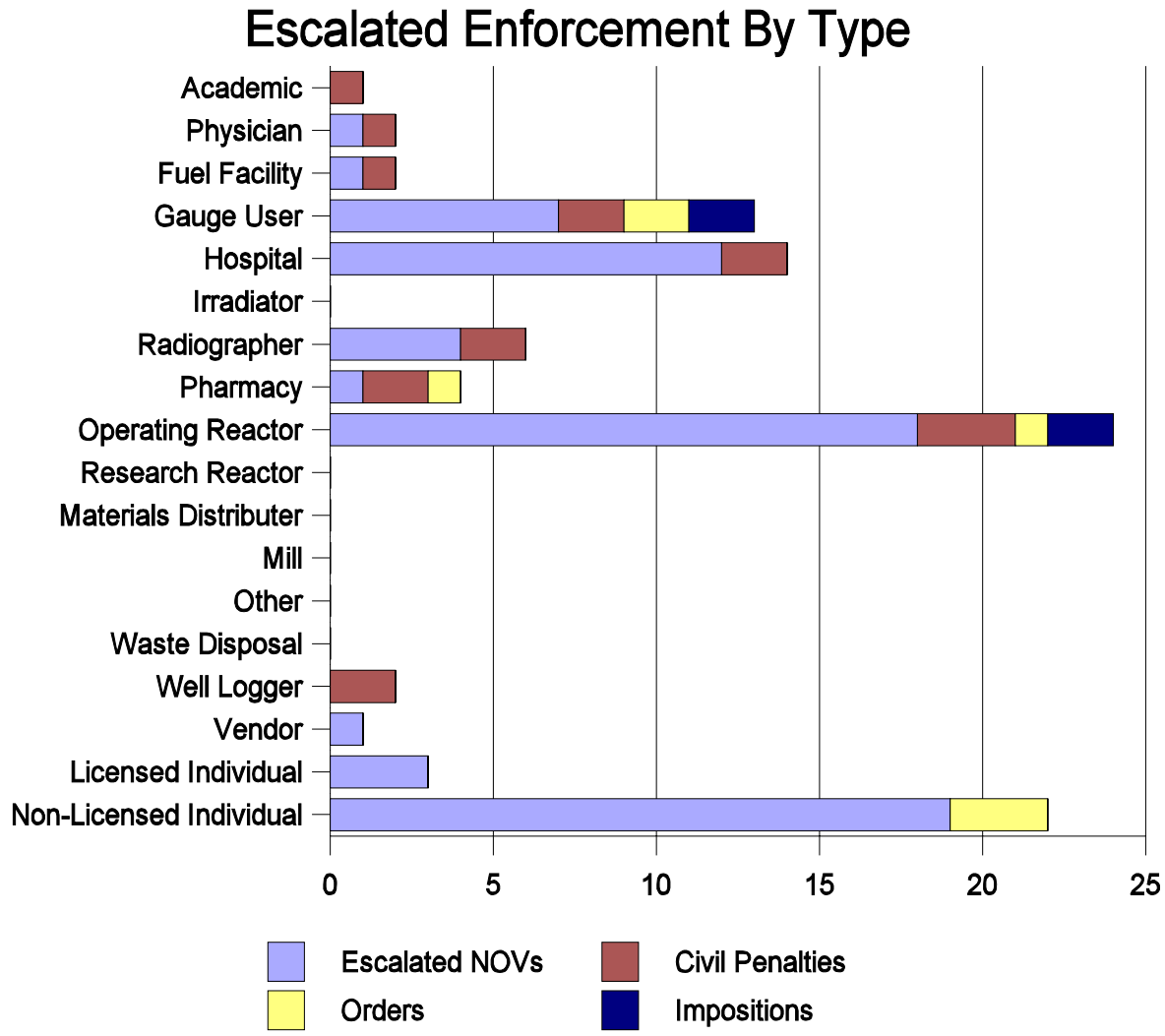
Escalated Enforcement By Type
Academic
Physician
Fuel Facility
Gauge User
Hospital
Irradiator
Radiographer
Pharmacy
Operating Reactor
Research Reactor
Materials Distributer
Mill
Other
Waste Disposal
Well Logger
Vendor
Licensed Individual
Non-Licensed Individual
0
5
10
15
20
25
Escalated NOVs
Civil Penalties
Orders
Impositions

Figure 4

TABLE 2: CIVIL PENALTY INFORMATION

	FY 00	FY 99	FY 98	FY 97	FY 96	FY 95
Number of Proposed Civil Penalties	16	24	76	112	78	59
Number of Imposed Civil Penalties	4	5	6	10	9	10
Number of Civil Penalties Paid	16	21	68	108	56	47
Amount of Proposed Civil Penalties	$446,600	$1,062,600	$5,206,600	$7,422,300	$3,832,500	$2,263,950
Amount of Imposed Civil Penalties	$231,550	$913,750	$115,650	$285,250	$44,500	$615,250
Amount of Civil Penalties Paid	$430,500	$1,070,850	$6,493,573	$6,657,300	$3,014,000	$2,265,949

NOTE: This table includes information based on individual civil penalty assessments. An enforcement action may include more than one individual civil penalty. In addition, a civil penalty may be proposed in one fiscal year and paid or imposed in another fiscal year.

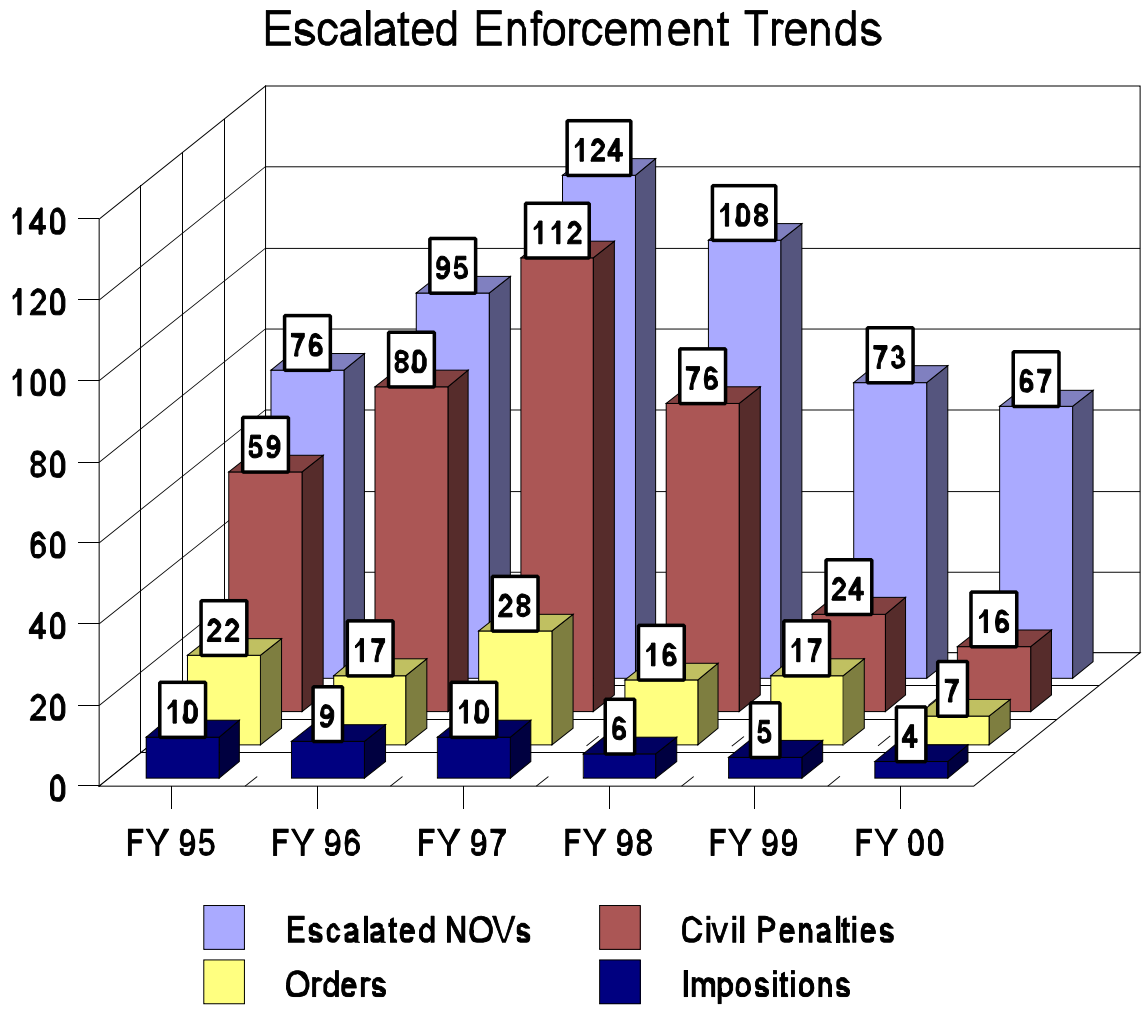
Escalated Enforcement Trends
140
120
100
80
60
40
20
0
FY 95
FY 96
FY 97
FY 98
FY 99
FY 00
76
59
22
10
80
17
9
95
112
28
10
124
76
16
6
108
76
17
5
73
24
7
4
67
16
Escalated NOVs
Civil Penalties
Orders
Impositions

Figure 5

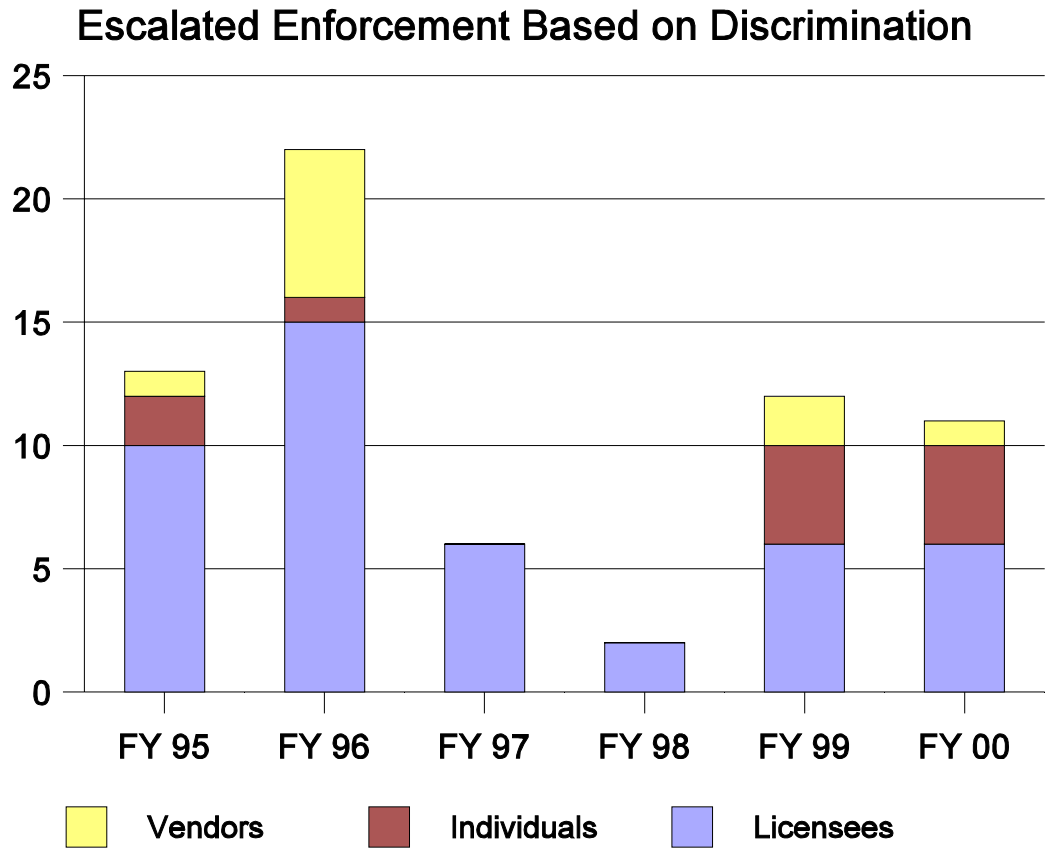
Escalated Enforcement Based on Discrimination
25
20
15
10
5
0
FY 95
FY 96
FY 97
FY 98
FY 99
FY 00
Vendors
Individuals
Licensees

Figure 6

APPENDIX A: SUMMARY OF ESCALATED NOTICES OF VIOLATION (WITHOUT CIVIL PENALTIES)

American Electric Power Company ***EA 99-329***
DC Cook, Michigan

On May 5, 2000, a Notice of Violation was issued for a Severity Level III violation based on discrimination against an employee for engaging in protected activities.

Burning Rock Coal Company ***EA 00-119***
Daniels, West Virginia

On June 30, 2000, a Notice of Violation was issued for a Severity Level II violation involving the deliberate operation of a fixed gauging device (containing 20 millicuries of cesium-137 and 300 millicuries of americium-241) without a required specific or general license issued by the NRC.

Caribbean Quality Control Services, Inc. ***EA 00-090***
St. Croix, U.S. Virgin Islands

On May 31, 2000, a Notice of Violation was issued for a Severity Level III violation based on the failure to control and maintain constant surveillance of licensed materials. Specifically, the action involve the transfer of a portable moisture-density gauge containing licensed material to a person not authorized to possess or use such byproduct material. During the time the person possessed the gauge, an untrained technician was allowed to operate it.

Clara Maas Medical Center ***EA 96-047***
Belleville, New Jersey

On April 26, 2000, a Notice of Violation was issued for a Severity Level III violation involving the failure to include written policies and procedures in the quality management program to meet the specific objective that any unintended deviation from a written directive is identified and evaluated.

Commonwealth Edison Company ***EA 00-010***
Braidwood Station, Illinois

On May 18, 2000, a Notice of Violation was issued for a Severity Level III violation based on a radiation protection technician's deliberate failure to follow required procedures when he activated the alarms on the portal monitors a total of 14 times and failed to contact the radiation protection department before leaving the station.

Commonwealth Edison Company ***EA 99-313***
Dresden Station, Illinois

On September 6, 2000, a Notice of Violation was issued for a Severity Level III violation based on discrimination against a radiation protection technician for engaging in protected activities.

Consolidated Edison Company ***EA 00-155***
Indian Point 2 Station, New York

On August 9, 2000, a Notice of Violation was issued for three violations that were associated with three white SDP findings. These white findings involved failures to meet NRC emergency planning standards for: (1) the timely augmentation by the emergency response organization, (2) the timely accountability of onsite radiation emergency workers, and (3) the factual and consistent dissemination of information to the media and a local official. These failures contributed to emergency response deficiencies that were exhibited during the course of the steam generator tube failure (SGTF) Alert event.

Cooperheat-MQS, Inc. ***EA 99-206***
Houston, Texas

On April 27, 2000, a Notice of Violation for a Severity Level III violation was issued based on the failure to make surveys to evaluate the extent of radiation levels and the potential radiological hazards present during a radiography source change.

David Blackmore & Associates ***EA 00-124***
Pottstown, Pennsylvania

On May 17, 2000, a Notice of Violation for a Severity Level III violation was issued for failure to control and maintain constant surveillance of licensed materials.

Detroit Edison Company ***EA 99-263***
Fermi, Michigan

On December 15, 1999, a Notice of Violation was issued for a Severity Level III violation based on the licensee's failure to comply with their Commission-approved physical security plan that resulted in a loaded handgun being entered into the protected area of the facility.

First Energy Nuclear Operating Company ***EA 99-212***
(previously named Duquesne Light Company)
Beaver Valley 2, Pennsylvania

On October 21, 1999, a Notice of Violation was issued for a Severity Level III problem involving failure to implement corrective actions to prevent biofouling of the service water system, and failure to provide adequate acceptance criteria in the procedure for chemical treatment of the service water system.

First Energy Nuclear Operating Company ***EAs 00-045 & 00-053***
(previously named Duquesne Light Company)
Beaver Valley 2, Pennsylvania

On May 3, 2000, a Notice of Violation was issued for two Severity Level III violations and one Severity Level III problem involving: (1) the failure to correct a condition adverse to quality involving the service water and river water pump vacuum break check valves, (2) the failure to perform an adequate design review of a temporary modification to the filtered water system, and (3) design deficiencies associated with the seal water supply to the river water pumps and the failure of the river water pump testing program to identify one of those deficiencies.

Entergy Operations, Inc. ***EA 00-081***
Arkansas Nuclear One, Arkansas

On June 15, 2000, a Notice of Violation was issued for a Severity Level III violation based on (1) inadequate design control over changes made to the pump bearing housing material and the viscosity of the bearing lubricating oil; and (2) the above changes resulting in the pumps being inoperable from January 28 to February 5, 2000, when service water cooling temperatures were below 42 degrees F.

Entergy Operations, Inc. ***EA 99-305***
Grand Gulf Nuclear Station, Mississippi

On February 22, 2000, a Notice of Violation was issued for a Severity Level III problem based on (1) failure to comply with the technical specification for operating the emergency diesel generator; (2) failure to establish adequate alarm response instructions; (3) failure to review a work package, and (4) failure to initiate condition reports for Nonconformances.

Entergy Operations, Inc. ***EA 99-158***
River Bend Station, Louisiana

On October 5, 1999, a Notice of Violation was issued for a Severity Level III violation based on inadequate work instructions for the emergency diesel generator fuel booster pump that rendered the generator inoperable.

Fox Chase Cancer Center ***EA 99-294***
Philadelphia, Pennsylvania

On November 30, 1999, a Notice of Violation was issued for a Severity Level III violation involving the failure of the Radiation Safety Committee to provide required training to all physicians to administer radioactive material.

Hawaiian Eye Clinic and Surgicenter ***EA 00-059***
Wahiawa, Hawaii

On July 25, 2000, a Notice of Violation was issued for a Severity Level II problem involving: (1) failure of quality management program (QMP) to assure that final treatment plans and related calculations were in accordance with written directive; and (2) failure of QMP to identify and evaluate deviations from written directives.

Hayes Testing Laboratory, Inc. ***EA 00-089***
Louisville, Kentucky

On June 9, 2000, a Notice of Violation was issued for a Severity Level III violation involving the performance of radiography in areas of NRC jurisdiction without filing an NRC Form 241, the failure to file revisions, and the failure to clarify a May 4, 1999, NRC Form 241 to identify new job sites and to include dates for performing radiography that were not previously submitted.

Holy Redeemer Hospital and Medical Center ***EA 99-246***
Meadowbrook, ***Pennsylvania***

On November 3, 1999, a Notice of Violation was issued for a Severity Level III violation involving misadministration by failure to properly implement the Quality Management Program (QMP) by the licensee in that no written directive was prepared prior to the administration of iodine-131.

International Testing & Inspection Services, Inc. ***EA 00-211***
Belle Chasse, Louisiana

On September 22, 2000, a Notice of Violation was issued for a Severity Level III violation based on the company's failure to obtain reciprocity from the NRC prior to conducting licensing activities in an area of exclusive Federal jurisdiction within an Agreement Statement.

Jersey City Medical Center ***EA 00-014***
Jersey City, New Jersey

On February 22, 2000, a Notice of Violation was issued for a Severity Level III problem involving: (1) failure to secure, limit access to, or maintain constant surveillance of licensed material stored in the Nuclear Medicine Department (NMD) Hot Laboratory and four research laboratories, (2) failure to follow procedures for receiving and opening packages of licensed material and (3) failure to provide required training.

Mallinckrodt Medical, Inc. ***EA 99-322***
Maryland Heights, Missouri

On January 11, 2000, a Notice of Violation was issued for a Severity Level III violation based on failure to comply with the licensee's Emergency Plan, when the licensee did not notify the U.S. NRC Operations Center and the State of Missouri Bureau of Environmental Epidemiology within one hour of declaring an Alert.

Material Testing Consultants, Inc. ***EA 99-253***
Grand Rapids, Michigan

On November 22, 1999, a Notice of Violation was issued for a Severity Level III violation involving the failure to maintain control and surveillance of licensed material that was in an unrestricted area and failure to follow emergency procedures.

Maxim Technologies of New York, Inc. ***EA 00-002***
Mechanicsville, New York

On January 10, 2000, a Notice of Violation was issued for a Severity Level III violation based on failure to comply with 10 CFR 34.43(a)(1); when the licensee permitted two individuals to act as radiographers without required radiographer certification.

MidMichigan Medical Center ***EA 99-215***
Midland, Michigan

On November 26, 1999, a Notice of Violation was issued for a Severity Level III problem involving failures to (1) consult a written directive before administering a therapeutic quantity of iodine-131 to a patient, (2) report a misadministration in a timely manner, and (3) provide the NRC inspector with complete and accurate information.

New York Power Authority ***EA 99-325***
James A. FitzPatrick Nuclear Power Plant, New York

On March 20, 2000, a Notice of Violation was issued for a violation in conjunction with a white SDP finding involving a high pressure coolant injection (HPCI) system overspeed event. The violation cited the licensee's failure to identify and correct problems with the HPCI system.

Nuclear Fuel Services, Inc. ***EA 99-218***
Erwin, TN

On October 19, 1999, a Notice of Violation was issued for a Severity Level III violation involving the failure to conduct searches in accordance with the physical protection plan, failure to follow procedures for special nuclear material (SNM), and failure to control and account for SNM in assigned locations.

Ohio State University ***EA 99-175***
Columbus, Ohio

On October 7, 1999, a Notice of Violation was issued for a Severity Level III violation involving the release of a patient who had been administered radiopharmaceuticals without ensuring that the total effective dose equivalent to any other individual exposed to the patient was below required limits.

PECO Nuclear ***EA 00-125***
Peach Bottom, Pennsylvania

On August 3, 2000, a Notice of Violation was issued for a violation that was assessed as a white SDP finding involving the improper classification of radioactive waste for shallow land burial.

Pocatello Regional Medical Center ***EA 99-332***
Pocatello, Idaho

On March 3, 2000, a Notice of Violation was issued for a Severity Level III problem involving: (1) failure to secure a generator from unauthorized removal, (2) failure to limit the external dose from the generator, (3) failure to provide the NRC with a written report in accordance with requirements, and (4) failure to conduct adequate surveys and to evaluate potential contamination.

Public Service Electric and Gas Company ***EA-00-018***
Salem Nuclear Generating Station, New Jersey

On February 14, 2000, a Notice of Violation was issued for failure to comply with a fire protection license condition. It was cited in accordance with the Interim Enforcement Policy for use during the NRC Power Reactor Oversight Process Plant Study. The violation was associated with a finding (failure of the Unit 2 4160Vac switchgear room carbon dioxide fire suppression system to achieve required concentration) that the SDP characterized as white.

Southern California Edison Co. ***EA 99-242***
San Onofre Nuclear Generating Station, California

On December 15, 1999, a Notice of Violation was issued for a Severity Level III violation based on the licensee's failure to comply with the technical specifications when the plant staff did not recognize a condition that rendered one diesel generator and more than one battery charger inoperable.

Southeastern Plastics Corporation ***EA 99-297***
New Brunswick, New Jersey

On December 29, 1999, a Notice of Violation was issued for a Severity Level III violation based on failure to comply with 10 CFR 31.5(c)(6); when the licensee abandoned an Ohmart gauge containing 1200 millicuries of krypton-85.

St. John Hospital & Medical Ctr. ***EA 99-289***
Detroit, Michigan

On December 20, 1999, a Notice of Violation was issued for a Severity Level III violation for failure of two qualified individuals to verify the correct dose of iodine-131 prior to administering it, which resulted in a misadministration.

St. Peter's Community Services ***EA 99-245***
Helena, Montana

On November 5, 1999, a Notice of Violation was issued for a Severity Level III violation involving a failure to maintain control and surveillance of licensed material that was in an unrestricted area.

Turabo Corporation ***EA 00-088***
Caguas, Puerto Rico

On June 12, 2000, a Notice of Violation was issued for a Severity Level III violation involving the failure to secure the portable moisture density gauge from unauthorized removal and failure to limit the dose in an unrestricted area.

V. A., Department of ***EA 99-284***
Hines, Illinois

On December 15, 1999, a Notice of Violation was issued for a Severity Level III problem involving two failures to follow the medical quality management program that resulted in a therapeutic misadministration.

V.A., Department of ***EA 99-174***
Iowa, IA

On October 14, 1999, a Notice of Violation was issued for a Severity Level III violation involving (1) failure to assess dose consequences to members of the public following the administration of Sn-117m to two human research subjects and (2) failure to provide the released subjects with written instructions on how to maintain doses to others as low as is reasonably achievable.

Vermont Yankee Nuclear Power Corporation ***EA 00-165***
Vermont Yankee Nuclear Power Station, Vermont

On September 18, 2000, a Notice of Violation was issued for a Severity Level III violation based on a former mechanical maintenance manager deliberately causing a violation of the procedure implementing the requirement to control contracted services during the 1998 refueling outage.

Victor E. Rivera Associates/Geotechnical Engineers ***EA 99-269***
Ponce, Puerto Rico

On November 23, 1999, a Notice of Violation was issued for a Severity Level III violation involving the failure to maintain control and surveillance of licensed material that was in an unrestricted area.

Virginia Commonwealth University ***EA 00-040***
Richmond, Virginia

On April 24, 2000, a Notice of Violation was issued for a Severity Level III problem based on the loss of licensed material (a brachytherapy strand containing seven seeds of iridium-192) and the failure to immediately report to the NRC the loss of licensed material.

Wisconsin Public Service Corp. ***EA 99-138***
Kewaunee Plant, Wisconsin

On October 19, 1999, a Notice of Violation was issued for a Severity Level III violation involving the failure to ensure full implementation of the NRC-approved plant security manual and falsification of security-related records.

APPENDIX B: SUMMARY OF PROPOSED CIVIL PENALTIES

Allegheny Wireline Services ***EA 99-034 and EA 00-005***
Weston, West Virginia

On February 8, 2000, a Notice of Violation and Proposed Imposition of Civil Penalties in the amount of $5,5000 was issued for a Severity Level III problem involving (1) the failure to conduct radiation surveys at well sites; and (2) the failure to maintain complete and accurate records of these surveys, as required by License Condition 21 and 10 CFR 30.9; and a Severity Level III violation involving the failure of the Radiation Safety Officer (RSO) to provide adequate oversight concerning the completion of radiation surveys and radiation survey records as required by License Condition 21.

Bass Energy, Inc. ***EA 00-118***
Bruceton Mills, West Virginia

On June 30, 2000, a Notice of Violation and Proposed Imposition of Civil Penalty of $8,800 was issued for a Severity Level II problem involving the failure to: (1) obtain written consent from the NRC prior to transferring control of licensed material to unlicensed companies on two occasions; (2) secure or maintain constant surveillance of licensed material from unauthorized access; and (3) provide information to the NRC that was complete and accurate in all material aspects.

Braun Intertec Corporation ***EA 00-147***
Minneapolis, Minnesota

On August 14, 2000, a Notice of Violation and Proposed Imposition of Civil Penalty of $5,500 was issued for a Severity Level III violation based on the failure of the licensee to have two qualified individuals present when conducting radiographic operations at temporary job sites.

Buxeda-Dacri, M.D., Roberto ***EA 00-141***
Santurce, Puerto Rico

On July 14, 2000, a Notice of Violation and Proposed Imposition of Civil Penalty of $2,750 was issued for a Severity Level III violation involving the failure to test an eye applicator source, containing approximately 31 millicuries of Strontium-90, for leakage at proper intervals.

Commonwealth Edison Company ***EA 98-518***
Zion Station, Illinois

On November 3, 1999, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $110,000 was issued for a Severity Level II violation involving discrimination against a Senior Reactor Operator for raising nuclear safety issues.

Consolidated Edison Company ***EA 99-319***
Indian Point 2 Station, New York

On February 25, 2000, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $88,000 was issued for a Severity Level II problem involving: (1) failure to translate design basis requirements into procedure of the 480 Volt (V) vital bus degraded voltage relays, which led to loss of offsite power to the vital busses; (2) failure to ensure that procedures used to calibrate the breaker trip units for the emergency diesel generators (EDGs) were adequate, which led to the inoperability of one EDG, and (3) failure to take corrective actions for a significant condition adverse to quality involving repetitive problems with the reactor protection system over-temperature/delta temperature circuitry, which led to initiation of a reactor trip.

Glendive Medical Center ***EA 00-076***
Glendive, Montana

On June 29, 2000, a Notice of Violation and Proposed Imposition of Civil Penalty of $2,750 was issued for a Severity Level III violation involving the failure to control and maintain constant surveillance of licensed materials (molybdenum-99/technetium-99m generators).

Professional Service Industries, Inc ***EA 99-194***
Lombard, Illinois

On October 22, 1999, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $8,800 was issued for a Severity Level II problem involving failures to: (1) conduct radiography with at least two qualified individuals to observe operations; (2) supervise a radiographic assistant while performing radiographic operations; and (3) maintain control and constant surveillance of licensed material that was in an unrestricted area.

Spectrum Pharmacy, Inc ***EA 00-071***
Mishawaka, Indiana

On September 21, 2000, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $2,750 was issued for a Severity Level III problem was based on: (1) failure to ensure surface contamination on shipping packages was within regulatory limits; (2) failure to follow emergency procedures; and (3) failure to perform surveys that may be necessary to ensure compliance with the requirements in 10 CFR Part 20.

Syncor International Corporation ***EA 00-060***
Woodland Hills, California

On June 28, 2000, a Notice of Violation and Proposed Imposition of Civil Penalty of $2,750 was issued for a Severity Level III problem involving: (1) failure to block and brace properly a package of radioactive material and (2) failure to maintain constant surveillance of licensed radioactive material.

Tennessee Valley Authority ***EA 99-234***
Sequoyah Nuclear Plant, Tennessee

On February 7, 2000, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $110,000 was issued for a Severity Level II violation involving employment discrimination against a former corporate employee for engaging in protected activities.

United States Enrichment Corporation ***EA 99-110***
Bethesda, MD

On December 20, 1999, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $88,000 was issued for a Severity Level II violation based on discrimination against the former Manager of Quality Systems for raising safety concerns.

Western Soil, Inc. ***EA 99-262***
Mayaguez, Puerto Rico

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $2,750 was issued for a Severity Level III violation involving the licensee's failure to maintain surveillance of licensed material.

West Virginia University ***EA 99-300***
Morgantown, WV

On February 4, 2000, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $2,750 was issued for a Severity Level III violation based on failure to secure, limit access to, or maintain constant surveillance of licensed material stored in the Civil Engineering Building and four research laboratories.

V. A., Department of ***EA 00-086***
Philadelphia, Pennsylvania

On July 20, 2000, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $5,500 was issued for a Severity Level III violation based on discrimination against a former employee for raising safety concerns.

APPENDIX C: SUMMARY OF ORDERS

IMPOSITION OF CIVIL PENALTY ORDERS

Bass Energy, Inc. ***EA 00-118***
Bruceton Mills, West Virginia

On September 29, 2000, June 30, 2000, an Order Imposing Civil Monetary Penalty in the amount of $8,800 was issued. Based on the nature of the violations, the licensee's failure to pay the proposed civil penalty or respond to the Notice, and the NRC's numerous attempts to discuss this matter with the licensee and their attorney, the NRC concluded that the civil penalty in the amount of $8,800 for the violations described in the Notice should be imposed.

Commonwealth Edison Company ***EA 98-518***
Zion Station, Illinois

On June 12, 2000, an Orider Imposing Civil Monetary Penalty in the amount of $110,000 was issued. The NRC considered the licensee's February 3, 2000, response and concluded that the violation occurred as stated in the November 3, 1999, Notice, and neither an adequate basis for withdrawing the violation, reducing the severity level, or mitigating or rescinding the civil penalty was given.

FirstEnergy Nuclear Operating Company ***EA 99-012***
(previously named Cleveland Electric Illuminating Co.)
Perry Nuclear Power Plant, Ohio

On August 12, 2000, an Order Imposing Civil Monetary Penalty in the amount of $110,000 was issued. The action was based on a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $110,000 that was issued on May 20, 1999, for a violation of the employee protection requirement. The Licensee's February 25, 2000, response denied the violation and requested that the violation be withdrawn and the civil penalty rescinded. After considering the licensee's response, the NRC concluded that the violation occurred as stated and that there was not an adequate basis for withdrawing the civil penalty.

Western Soil, Inc. ***EA 99-262***
Mayaguez, Puerto Rico

On April 12, 2000, an Order Imposing Civil Monetary Penalty in the amount of $2,750 was issued. The NRC considered the licensee's December 20, 1999, and February 16, 2000, responses and concluded that the violation in the November 24, 1999, Notice occurred as stated and that the proposed civil penalty remained valid.

CONFIRMATORY, MODIFICATION, SUSPENSION, AND CEASE & DESIST ORDERS

Alfonso DeLeo, Jr. ***EA 99-217***
Ardmore, Pennsylvania

On December 13, 1999, an Order Modifying Order Suspending License and Order Revoking License was issued based on: (1) the failure to comply with an Order suspending the license that was issued February 12, 1996; (2) the failure to pay required annual fees; and (3) the willful failure to comply with the decommissioning rule.

Entergy Operations, Inc. ***EA 00-093***
Waterford-3

On August 4, 2000, an immediately effective Confirmatory Order was issued to confirm commitments made by the licensee concerning the implementation of corrective actions for the physical security program at the Waterford 3 facility.

Mallinckrodt Medical, Inc. ***EA 00-143***
Maryland Heights, Missouri

On June 22, 2000, a Confirmatory Order was issued requiring the company to review and improve its radiation protection program and its training for workers as a result of radiation overexposures to several employees in the past two years.

Roof Survey and Consultants, Inc. ***EA 99-223***
Roanoke, VA

On October 4, 1999, an Order Revoking License was issued based on the failure to pay annual fees and failure to comply with the terms of the April 3, 1997, Order Suspending License.

APPENDIX D: SUMMARY OF ACTIONS AGAINST INDIVIDUALS (LICENSED & NON-LICENSED)

ORDERS

Randall G. Falvey ***IA 99-049***

On October 19, 1999, an Order prohibiting involvement in NRC-Licensed Activities was issued based on failure to ensure full implementation of the NRC-approved plant security manual and deliberate falsification of security-related records.

Jasen Mallahan ***IA 99-047***

On October 22, 1999, an Order prohibiting involvement in NRC-Licensed Activities was issued based on deliberate failure to conduct radiography with at least two qualified individuals to observe operations and supervise a radiographic assistant while performing radiographic operations.

John Urban ***IA 99-053***

On November 26, 1999, an Order prohibiting involvement in NRC-Licensed Activities was issued based on deliberate misconduct by willfully failing to consult the physician's written directive prior to administering a therapeutic dosage to a patient, altering the written directive and providing incomplete and inaccurate information to the NRC inspector, which caused in part, the licensee to file an untimely report.

NOTICES OF VIOLATION (NOVs)

Walter Anderson ***IA 99-046***

On October 1, 1999, a Notice of Violation was issued for a Severity Level III violation based on violation of NRC requirements governing fitness-for-duty as a licensed operator.

Henry Carter ***IA 00-019***

On May 18, 2000, a Notice of Violation was issued for a Severity Level III violation based on deliberate failure to follow required procedures when he activated the alarms on the portal monitors a total of 14 times and failed to contact the radiation protection department before leaving the station.

Daniel Cosentino ***IA 00-017***

On July 19, 2000, a Notice of Violation was issued for a Severity Level III violation based on deliberate failure to perform visual inspections of portable fire extinguishers and fire hose stations and falsified the associated data sheets.

Leonard Frye ***IA 99-050***

On February 8, 2000 a Notice of Violation was issued for a Severity Level III violation of 10 CFR 30.10 (Deliberate Misconduct) involving deliberate failure as an RSO to provide oversight sufficient to ensure the completion of radiation surveys and radiation survey records required by License Condition.

John R. Godwin ***IA 99-060***

On December 22, 1999, a Notice of Violation was issued for a Severity Level III violation based on violation of NRC requirements governing fitness-for-duty.

Rob Grant ***IA 00-038***

On September 6, 2000, a Notice of Violation was issued for a Severity Level III violation based on discrimination against a radiation protection technician for engaging in protected activities.

Michael Hibbens ***IA 99-048***

On October 22, 1999, a Notice of Violation was issued for a Severity Level III violation based on deliberate failure to have qualified individuals to observe operations, and maintain control and constant surveillance of licensed material that was in an unrestricted area.

Clarence E. Jones ***IA 00-029***

On May 24, 2000, a Notice of Violation was issued for a Severity Level III of 10 CFR 50.5 by deliberately attempting to subvert the fitness-for-duty test and conceal the use of illegal drugs.

Essence L. A. Kegler ***IA 00-018***

On April 28, 2000, a Notice of Violation was issued for a Severity Level III violation of 10 CFR 50.5 by deliberately attempting to subvert the fitness-for-duty test and conceal the use of illegal drugs.

Jorge A. Labarraque ***IA 99-059***

On December 20, 1999, a Notice of Violation was issued for a Severity Level II violation based on deliberate misconduct for discrimination against the former Manager of Quality Systems for raising safety concerns.

Wilson C. McArthur ***IA 99-043***

On February 7, 2000, a Notice of Violation was issued for a Severity Level II violation based on deliberate misconduct for discrimination against the former employee for raising safety concerns.

Thomas J. McGrath ***IA 99-044***

On February 7, 2000, a Notice of Violation was issued for a Severity Level II violation based on deliberate misconduct for discrimination against the former Manager that cause a licensee to be in violation of NRC requirement, 10 CFR 50.7.

Byrce E. Miller ***IA 00-036***

On August 15, 2000, a Notice of Violation was issued for a Severity Level III violation based on deliberate misconduct in violation of 10 CFR Part 55, fitness-for-duty, by admitting using illegal drug (cocaine).

Ross H. Stromberg ***IA 99-055***

On November 23, 1999, a Notice of Violation was issued for a Severity Level III violation based on violation of NRC requirements governing fitness-for-duty.

Larry E. Taylor ***IA 99-061***

On December 27, 1999, a Notice of Violation was issued for a Severity Level III violation based on violation of NRC requirements governing fitness-for-duty as a licensed operator.

Steve Templeton ***IA 99-051***

On January 31, 2000, a Notice of Violation was issued for a Severity Level III violation based on deliberate misconduct when the individual: (1) deliberately caused work in progress to violate a protective requirement specified on a radiation work permit (RWP); and (2) intentionally failed to survey the steam generator platform prior to decontamination activities.

John D. Tipton ***IA 99-054***

On November 23, 1999, a Notice of Violation was issued for a Severity Level III violation based on violation of NRC requirements governing fitness-for-duty.

David J. Understahl ***IA 00-026***

On September 20, 2000, a Notice of Violation was issued for a Severity Level III violation based on deliberate misconduct by submitting inaccurate and incomplete information under the NRC-required fitness-for-duty program at Braidwood Nuclear Power Plant (adulterated test specimen).

Billy R. Watts ***IA 00-027***

On September 20, 2000, a Notice of Violation was issued for a Severity Level III violation based on deliberate misconduct by submitting inaccurate and incomplete information under the NRC-required fitness-for-duty program at Braidwood Nuclear Power Plant (adulterated test specimen).

Thomas Whelan ***IA 00-035***

On September 22, 2000, a Notice of Violation was issued for a Severity Level III violation based his deliberate actions when he entered a high radiation area without receiving authorization from cognizant work supervision.

Anthony Xenakis ***IA 00-037***

On August 31, 2000, a Notice of Violation was issued for a Severity Level III violation based on violation of NRC requirements governing fitness-for-duty as a licensed operator.

Joseph Zelaya ***IA 00-005***

On February 24, 2000, a Notice of Violation was issued for a Severity Level III violation based on deliberate misconduct for submitting incomplete information to Florida Power and Light Company (FPL) on the personal history questionnaire for unescorted access to the Turkey Point plant.

DEMANDS FOR INFORMATION (DFIs)

None.

APPENDIX E: SUMMARY OF ACTIONS AGAINST VENDORS AND CERTIFICATE HOLDERS

IMPOSITION OF CIVIL PENALTY ORDERS

None.

ORDERS

None.

CIVIL PENALTIES

None.

NOTICES OF VIOLATION (NOVs)

Numanco, L.L.C ***EA 99-314***
Tulsa, Oklahoma

On September 6, 2000, a Notice of Violation was issued for a Severity Level III violation based on discrimination against a radiation protection technician for engaging in protected activities.

DEMANDS FOR INFORMATION (DFIs)

None.

APPENDIX F: SUMMARY OF HEARING ACTIVITY

Western Soil Inc. ***EA 99-262***

On June 6, 2000, the licensee requested a hearing in response to an April 12, 2000, Order Imposing Civil Monetary Penalty. The Imposition was based on the licensee's failure to maintain control and surveillance of licensed material. On August 24, 2000, the NRC and the licensee filed a settlement agreement for approval by the Atomic Safety and Licensing Board, that, among other things reduced the civil penalty from $2,750 to $500. The Licensing Board approved the settlement on August 29, 2000.

APPENDIX G: SUMMARY OF 10 CFR 2.206 ACTIVITY

Petition Regarding Hydro Nuclear Services/Westinghouse

A petition was received on July 18, 2000, regarding Hydro Nuclear Services/Westinghouse and/or its successors, requesting: (1) that the NRC immediately ban Westinghouse from doing business in the nuclear industry for willfully failing to comply with a U.S. Department of Labor (DOL) order; (2) that a fine immediately be assessed against Westinghouse commensurate with a Severity Level I violation; and (3) that each day of noncompliance count as a separate violation, with its own fine. The petitioner asserted that Westinghouse's failure to comply with a DOL order created a chilled environment in the nuclear industry. The staff concluded in a letter to the petitioner on October 18, 2000, that there was no support for such an allegation in the petition and therefore, concluded that further review was not warranted.

Petition Regarding Nine Mile Point 1 and 2

A petition was received on May 10, 2000, regarding Nine Mile Point Nuclear Units 1 & 2. The petitioner requested that the NRC take enforcement action against Niagra Mohawk Power Corporation (NMPC) and its senior nuclear managers for willfully submitting falsified documents to the NRC and to the DOL in conjunction with a May 10, 1996, enforcement conference concerning discrimination against an employee for engaging in protected activities. Although the petition did not address the 1996 discrimination case, the NRC staff did conclude that NMPC had violated 10 CFR 50.7 and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $80,000 on July 24, 1996. The petitioner had previously submitted a petition on April 5, 1999, requesting that the NRC take action against NMPC and its senior nuclear and corporate management for allegedly altering and causing public release of documents about the individual's performance, and for misrepresenting the findings of an Administrative Law Judge in the related DOL discrimination case. In Director's Decision 99-13, dated October 28, 1999, the Director, Office of Nuclear Reactor Regulation, determined that the petition should be denied for reasons stated in the decision. After review of the May 10, 2000, petition, as well as additional information submitted by both the petitioner and NMPC, the staff concluded in a letter to the petitioner dated August 10, 2000, that significant new information did not exist and further pursuit of the issue was not justified.